



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

Leslie L. Tucker III, §  
Plaintiff, §  
§  
vs. § CIVIL ACTION NO. 4:23-3694-MGL  
§  
§  
Todd Tucker, §  
Defendant. §

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
AND DISMISSING THIS ACTION WITHOUT PREJUDICE,  
WITHOUT LEAVE TO AMEND,  
AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

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Plaintiff Leslie L. Tucker III (Tucker), who is self-represented, brings this 42 U.S.C. § 1983 civil rights action against Defendant Todd Tucker (Defendant Tucker), the Florence County deputy solicitor. Tucker is a pretrial detainee at the Florence County Detention Center, and is charged with murder.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending to the Court this action be dismissed without prejudice, without leave to amend, and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court.

*Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate, Judge filed the Report on February 13, 2024, and the Clerk of Court entered Tucker's objections on March 1, 2024. The Court has carefully reviewed Tucker's objections, but holds them to be without merit. It will therefore enter judgment accordingly.

The Magistrate Judge gives three reasons why the Court should dismiss Tucker's action. First, she states Defendant Tucker has prosecutorial immunity. Second, she concludes Tucker has failed to establish a colorable malicious prosecution claim against Defendant Tucker. And third, the Magistrate Judge says this Court is forbidden to interfere with Tucker's ongoing state criminal proceeding. Further, to the extent Tucker has brought any state law claims, she suggests the Court decline to exercise supplemental jurisdiction over those claims.

In Tucker's objections, he fails to address any of these three rationales for dismissal. He also neglects to address the supplemental jurisdiction issue. Therefore, inasmuch as the Court agrees with the Magistrate Judge's above-listed recommendations, the Court will dismiss this action and decline to exercise supplemental jurisdiction over any state claims Tucker might have raised in his complaint.

Tucker also filed a motion for abeyance, asking the Court to "please hold [his] civil claim matter in [a]beyance, until [his] state case is dismissed or resolved at a trial." Motion for Abeyance at 1. But, he fails to present any proper factual or legal basis for granting the motion. Accordingly, the Court will deny the motion.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Tucker's objections, adopts the Report, and incorporates it herein.

It is therefore the judgment of the Court Tucker's Section 1983 action is **DISMISSED WITHOUT PREJUDICE**, without leave to amend, and without issuance and service of process.

Further, to the extent Tucker has brought any state law claims, the Court declines to exercise supplemental jurisdiction over those claims. Accordingly, any state claims are also **DISMISSED WITHOUT PREJUDICE**.

In addition, Tucker's motion for abeyance is **DENIED**.

**IT IS SO ORDERED.**

Signed this 24th day of June, 2024, in Columbia, South Carolina.

/s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

Tucker is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.